

# USMS D/AK Samples

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

William B. (Bat) Materson	)	
	)	
Plaintiff,	)	Case No. A00-0000 CIV ( )
	)	
vs.	)	ORDER APPOINTING
	)	PAT GARRETT
S/V Buffalo Gal, Official No. 000000	)	AS SUBSTITUTE CUSTODIAN
Her Engine, Tackle and Appurtenances;	)	
Jeff (Soapy) Smith and William H. Bonney	)	
	)	
Defendants,	)	
	)	

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TO THE HONORABLE, THE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA:

Plaintiff, Matt Dillon of Dodge City, Kansas, by and through his attorney, Sam McGee, having appeared, now makes the following recitals:

1. On \_\_\_\_\_, \_\_\_\_\_, the complaint herein was filed praying that the defendant vessel Buffalo Gal, her engines, machinery, appurtenances, etc., be condemned and sold to pay plaintiff's claims and for the other proper relief.

2. In the immediate future, the Clerk of this Court is expected to issue a Warrant for Arrest of Vessel, commanding the United States Marshal for this District to arrest and take into custody the defendant vessel and to detain the same in his custody until further order of this Court respecting same.

## **SAMPLE SUBSTITUTE CUSTODIAN ORDER**

3. It is contemplated that the United States Marshal will seize the defendant vessel forthwith. Custody by the United States Marshal requires services of one or more keepers at a cost exceeding that of a substitute custodian, not including charges for moorage and the other services usually

associated with safekeeping vessels similar to the defendant vessel.

4. The defendant vessel is currently moored at Skagway, Alaska. Plaintiff is agreeable to allow Pat Garrett of Skagway to assume the responsibility of safekeeping the defendant vessel, Pat Garrett has consented to act as her custodian until further order of the court.

5. Pat Garrett, by certification submitted herewith and made a part hereof, avers that he can provide for adequate maintenance and supervision for the proper safekeeping of the defendant vessels after its arrest. He avers that the charge for these services will consist of a daily custodial charge of \$\_\_\_\_\_ if his services are required for not over 1 month, or \$\_\_\_\_\_ if his services are required for longer than 1 month, and that his the beneficiary of insurance adequate to respond in damages for loss or injury to the defendant vessel or for damages by third parties due to any acts, faults, or negligence by said substitute custodian or his agents. Further, in said certification substitute custodian accepts, in accordance with the terms of this order, possession of the defendant vessel, her engines, machinery, appurtenances, etc., which is the subject of the action herein.

6. In consideration of the United States Marshals consent to the appointment of Pat Garrett as substitute custodian, **plaintiff and Pat Garrett agrees to release the United States and the United States Marshal from any and all liability and responsibility arising out of the care and custody of the defendant vessel, her engines, machinery, appurtenances, etc., from the time the United States Marshal transfers possession of the said vessel over to said substitute custodian, and plaintiff further agrees to hold harmless and indemnify the United States and the United States Marshal from any and all claims whatsoever arising out of the substitute custodian's possession and safekeeping.**

THEREFORE, IT IS ORDERED that the United States Marshal for the District of Alaska is authorized, upon his seizure of said defendant vessel, pursuant to WARRANT FOR ARREST, to surrender the possession thereof to Pat Garrett, as substitute custodian maned herein, and that upon such surrender the United States Marshal shall be discharged from his duties and responsibilities for

#### **SAMPLE SUBSTITUTE CUSTODIAN ORDER**

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the safekeeping of said vessel and held harmless from any and all claims whatever arising out of said custodial services.

IT IS FURTHER ORDERED that Pat Garrett is appointed custodian of the defendant vessel, to retain the same in his custody for possession and safekeeping until further order of this Court. All costs for custodial service and moorage charges shall be paid by plaintiff, and may, upon further order

of this Court, be deemed administrative costs herein.

IT IS FURTHER ORDERED that plaintiff's attorney serve a copy of this order on the owner of the defendant vessel.

It is further ordered that the Clerk of this Court deliver, two certified copies of this order to the United States Marshal forthwith.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_

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UNITED STATES MAGISTRATE JUDGE

Approved for entry:

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United States Marshal  
District of Alaska